

## State Water Resources Control Board

**MAY 09 2014**

Mr. Patrick Toelkes  
Cardno ERI  
25371 Commercentre Drive, Suite 250  
Lake Forest, CA 92630  
(Via e-mail: [patrick.toelkes@carno.com](mailto:patrick.toelkes@carno.com))

Dear Mr. Toelkes:

PETITION OF EXXONMOBIL OIL CORPORATION FOR REVIEW OF DENIAL OF  
PETROLEUM UNDERGROUND STORAGE TANK CASE CLOSURE, MOBIL STATION NO.  
18-FTA, 12800 ROSECRANS AVENUE, NORWALK, LOS ANGELES COUNTY: DISMISSAL

Mr. Patrick Toelkes on behalf of ExxonMobil Oil Corporation (Petitioner) seeks review by the State Water Resources Control Board (State Water Board) of the Los Angeles Regional Water Quality Control Board (Regional Water Board) decision to reject closure of Petitioner's underground storage tank (UST) case at 12800 Rosecrans Avenue, Norwalk, Los Angeles County (Site).

The case has the following Identification numbers:

- State Water Board Division of Water Quality Petition No. 0224
- GeoTracker No. T0603758125
- Regional Water Board No. I-03148A
- Los Angeles County Fire Department No. 03040-03148

After careful consideration, I conclude that the petition in this matter fails to raise substantial issues that are appropriate for review by the State Water Board. Accordingly, the State Water Board refuses to review your request for UST case closure. (See Cal. Code Regs., tit. 23, § 2814.7, subdivision (d)(4); see also, *Johnson v. State Water Resources Control Board* (2004) 123 Cal.App.4th 1107; *People v. Barry* (1987) 194 Cal.App.3d 158.)

### APPLICABLE LAW

Owners and operators of USTs and other responsible parties may petition the State Water Board for a review of their case if they believe the corrective action plan for their Site has been satisfactorily implemented, but closure has not been granted. (Health & Saf. Code, § 25296.40, subdivision (a)(1). See also Cal. Code Regs., tit 23, § 2814.6.)

Several statutory and regulatory provisions provide the State Water Board, Regional Water Quality Control Boards, and local agencies with broad authority to require responsible parties

to clean up a release from a petroleum UST. (Health & Saf. Code, § 25296.10; Wat. Code, § 13304, subdivision (a).) The State Water Board has promulgated regulations specifying corrective action requirements that are applicable to petroleum UST cases. (Cal. Code Regs., tit. 23, §§ 2720-2728.)

The regulations define corrective action as "any activity necessary to investigate and analyze the effects of an unauthorized release; propose a cost-effective plan to adequately protect human health, safety, and the environment and to restore or protect current and potential beneficial uses of water; and implement and evaluate the effectiveness of the activity(ies)." (Cal. Code Regs., tit. 23, § 2720.)

Closure of a UST case is appropriate where the corrective action ensures the protection of human health, safety, and the environment and where the corrective action is consistent with: (1) chapter 6.7 (commencing with section 25280) of Division 20 of the Health and Safety Code and implementing regulations, (2) any applicable waste discharge requirements or other order issued pursuant to Division 7 (commencing with section 13000) of the California Water Code, (3) all applicable state policies for water quality control, and (4) all applicable water quality control plans.

State Water Board Resolution 2012-0016, Water Quality Control Policy for Low-Threat Underground Storage Tank Case Closure (Policy) is a state policy for water quality control and applies to petroleum UST cases that are low-threat. In State Water Board Resolution No. 2012-0016, the State Water Board adopted the Policy. The Policy became effective on August 17, 2012. The Policy establishes consistent statewide case closure criteria for certain low-threat petroleum UST sites. In the absence of unique attributes or Site-specific conditions that demonstrably increase the risk associated with residual petroleum constituents, cases that meet the general and media-specific criteria in the Policy pose a low-threat to human health, safety, and the environment and are appropriate for closure under Health and Safety Code section 25296.10. The Policy provides that if a regulatory agency determines that a case meets the general and media-specific criteria of the Policy, then the regulatory agency shall notify responsible parties and other specified interested persons that the case is eligible for case closure. Unless the regulatory agency revises its determination based on comments received on the proposed case closure, the Policy provides that the agency shall issue a uniform closure letter as specified in Health and Safety Code section 25296.10.

The Water Quality Control Plan for the Los Angeles Basin Plan (Basin Plan) designates present and potential beneficial uses of groundwater as municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PROC). (Water Quality Control Plan for the Los Angeles Region, February 1995, Chapter 2).

## BACKGROUND

- The Site is located at the southeastern corner of the intersection of Rosecrans Avenue and Firestone Boulevard in Norwalk.
- The Site is currently a Valero-branded active commercial petroleum fueling facility.
- The area surrounding the Site consists of light commercial and residential properties. Interstate 5 is located across Firestone Boulevard to the west. A grocery store and various other shops are located to the east of the Site. An apartment complex is located across Rosecrans Avenue to the north of the site.

- The nearest supply well is located approximately 4,700 feet northwest of the Site. The nearest surface water body is located approximately 2.81 miles west of the Site.
- The geology of the Site was described as sand and silty sand to approximately 25 feet below ground surface (bgs), and silt and clay to approximately 60 feet bgs.
- Groundwater conditions were described to have an average hydraulic gradient of approximately 0.01 foot per foot. The groundwater flow direction has generally been reported to the northeast.
- The release Site was a previous UST cleanup case that was opened in 1987 during UST upgrade activities. The Site was granted closure by the Regional Water Board in 1998, and all the wells were destroyed.
- The active UST cleanup case was opened in 2001 when a release was discovered during fueling system upgrades. During 2009 and 2010 a vacuum truck using dual-phase extraction removed approximately 295 pounds of vapor phase and 0.7 pound of dissolved phase TPHg from beneath the Site.

On February 5, 2013, the Petitioner requested UST case closure from the Regional Water Board, the regulatory agency that oversees corrective action at the Site. The Regional Water Board denied case closure on February 8, 2013. On February 28, 2013, the Petitioner filed a case closure petition requesting a State Water Board review of the case.

On June 3, 2013, the Regional Water Board responded to the petition and provided the following reasons for denying UST case closure: (1) groundwater monitoring data indicate the tert-butyl alcohol (TBA) plume has not been fully defined along the eastern and western boundaries of the property. Additional delineation is necessary to define the extent of the discharges of waste; and (2) in general, TBA concentrations have not stabilized. Concentrations of TBA in MW-4 and MW-5 have increased from 370 µg/L and 413 µg/L, respectively during August 2004 to 38,000 µg/L, in both wells, during July 2012. Concentrations of TBA have also increased in MW-11 from 39,700 µg/L during October 2008 to 45,000 µg/L during July 2012. Although there is no maximum contaminant level for TBA, the notification level established by the California State Department of Public Health is 12 µg/L.

## DISCUSSION

The Petitioner contends that based on the historical soil and current groundwater conditions: (1) this Site meets or exceeds both the general and media-specific criteria of the Policy; (2) the remaining residual hydrocarbons beneath the Site does not pose a risk of adversely affecting human health and environment and will naturally attenuate in a reasonable amount of time; and (3) the basin water quality objectives will be met before the affected groundwater is used as a source for domestic water supply.

The case record lacks sufficient data to determine that the Petitioner's unauthorized release meets all of the specified criteria of the Policy. Additional delineation of contaminants along the east and west boundaries of the Site and further analysis of the contaminant plume stability is necessary to ensure the protection of human health, safety, and the environment.

When directing closure of a UST case, the State Water Board must find that the corrective action performed ensures the protection of human health, safety, and the environment and that it is consistent with chapter 6.7 of Division 20 of the Health and Safety Code and implementing regulations, any waste discharge requirements, other orders issued pursuant to the

Porter-Cologne Water Quality Control Act, and all applicable state policies for water quality control.

The requirements for case closure have not been met at this time and, therefore, closure of the UST case is not appropriate. Current Site conditions support a potential threat to human health, safety, and the environment. At this point in time, insufficient data are available to determine that corrective action ensures the protection of human health, safety, and the environment. Case closure is inappropriate at this time.

### CONCLUSION

Because the petition fails to raise substantial issues that are appropriate for review by the State Water Board, I decline to have the State Water Board review the Petitioner's request for UST case closure.

If you have any questions about this matter, please contact Kevin Graves, UST Program Manager at (916) 341-5782 or by e-mail at: [kevin.graves@waterboards.ca.gov](mailto:kevin.graves@waterboards.ca.gov).

Sincerely,

  
Thomas Howard  
Executive Director

cc: [Via e-mail only]

Mr. Samuel Unger  
Regional Water Board  
([samuel.unger@waterboards.ca.gov](mailto:samuel.unger@waterboards.ca.gov))

Mr. Yue Rong  
Regional Water Board  
([yue.rong@waterboards.ca.gov](mailto:yue.rong@waterboards.ca.gov))

Mr. Benjamin Heningburg  
State Water Board  
([benjamin.heningburg@waterboards.ca.gov](mailto:benjamin.heningburg@waterboards.ca.gov))

Ms. Therese Barakatt  
State Water Board  
([Therese.Barakatt@waterboards.ca.gov](mailto:Therese.Barakatt@waterboards.ca.gov))

Ms. Jennifer Fordyce  
State Water Board  
([jennifer.fordyce@waterboards.ca.gov](mailto:jennifer.fordyce@waterboards.ca.gov))

cc: Continued next page

cc: [Via e-mail only]

Ms. Nicole Kuenzi  
State Water Board  
([nicole.kuenzi@waterboards.ca.gov](mailto:nicole.kuenzi@waterboards.ca.gov))

Ms. Frances McChesney  
State Water Board  
([frances.mcchesney@waterboards.ca.gov](mailto:frances.mcchesney@waterboards.ca.gov))

Ms. Paula Ramussen  
State Water Board  
([paula.rasmussen@waterboards.ca.gov](mailto:paula.rasmussen@waterboards.ca.gov))

Mr. Lee Hanley  
ExxonMobil Oil Corporation  
([lee.w.hanley@exxonmobil.com](mailto:lee.w.hanley@exxonmobil.com))

